



Jersey Financial
Services Commission

Guide to Section II of risk based supervision data:

Trust Company Businesses with respect to Regulated Non-Profit Organizations and Private Trust Companies

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1 General guidance

1.1 Scope

In 2018 we collected supervisory risk data from Reporting Entities for the first time. This exercise was repeated in 2019, 2020 and 2021. As advised on 3 December 2021¹, we are collecting the same data in 2022 with respect to 2021.

As part of the data collection exercise we collect data from persons registered to carry on trust company business (**TCBs**) with respect to two specific activities:

- (a) Providing a prescribed service to a non-profit organization (**NPO**); and
- (b) Administering a private trust company (**PTC**).

An affiliation leader should complete the data request in respect of all members of its affiliation.

It is recognised that some TCBs only conduct one of the two activities listed above.

1.2 Excel workbook

The Excel workbook sent to the TCBs contains three spreadsheets, as follows:

- (a) F – Regulated NPOs
- (b) FA-Regulated NPO Country list
- (c) FB-Private Trust Companies

1.3 Data reporting period

Data should be provided for the period 1/1/2021 to 31/12/2021.

There are some data items where the data should be provided as at the end of the reporting period (31/12/2021 or closest business day).

1.4 Data Submission

Whilst we will be collecting the same data as we did in previous years, TCBs are still recommended to consider the data request as soon as possible. It may take some time to gather the data requested and the deadline for submission is **17:00 on 30 April 2022**.

Each TCB which either administers one or more PTCs, or provides a prescribed service to a regulated NPO, will be submitting a completed Excel workbook for this element of Section II through myJFSC.

TCBs that are required to make a submission have a designated myJFSC contact, which, in the vast majority of cases, is the compliance officer. Notwithstanding that the myJFSC contact has responsibility for submitting the data, the board, or equivalent, of the TCB should have oversight of the content of the submission made on their behalf.

For many this will be the fifth time the data return has been completed therefore we expect TCBs to be in a very good position to report their 2021 data and that only on a very exceptional basis will responses need to be derived by extrapolation or estimates supported by specific criteria. This position is supported by the extensive data collection we completed during 2021 as part of the National NPO risk assessment work.

Where a TCB needs to extrapolate or estimate its data as system changes are still being implemented, the comments section at the bottom of the relevant spreadsheet should highlight which data elements have been impacted, the extent of they have been impacted and when the relevant system changes will take effect.

Where the TCB feels it necessary to provide additional data to enable us to understand the response, this information should also be included in the comments section at the bottom of each relevant spreadsheet. This could include information highlighting any significant divergence from the NPO risk assessment data provided in Q3/Q4 2021.

Note: the data requests contained in this Excel workbook are independent of each other. TCBs requested to complete this Excel workbook should complete all spreadsheets.

- (a) TCBs providing prescribed services to **NPOs** and administering one or more **PTCs** should complete spreadsheets **F, FA and FB**.
- (b) TCBs **only** providing prescribed services to **NPOs** should complete spreadsheets **F and FA**.
If a TCB **does not** administer any **PTCs** then insert "0" in each cell in row 1 of spreadsheet *FB-Private Trust Companies*
- (c) TCBs **only** administering one or more **PTCs** should complete spreadsheet **FB**.
If a TCB **does not** provide prescribed services to a **NPO** then insert "0" in each cell of spreadsheet *F-Regulated NPOs*

Spreadsheet *FA-Regulated NPO Country list*, can be left blank if the TCB does not act for regulated NPOs.

1.5 Integrity checking your submission

Before submitting your data we suggest that the integrity checks highlighted below for those responding with respect to regulated NPOs should be competed.

Regulated non-profit organizations

- 1.5.1 The following should all add to the same total number (**F1(f)**) as the questions analyse the number of regulated NPOs as at 31 December 2021:
 - (a) By prescribed service: F1(a) to (e) will auto add to F1(f)
 - (b) By purpose: F2(a) to (c)
 - (c) By fund raising and disbursing characteristics: sum of F3(a)(i) + F3(b)(i) + F3(c)(i)

2 Section F and section FA – Regulated Non-Profit Organizations

2.1 Overview

This section collects data about NPOs that are administered by TCBs.

A NPO is a regulated NPO when it is provided with a prescribed service in the course of trust company business.

Non-profit organization is defined in Article 1 of the NPO Law:

- (1) *An organization is a non-profit organization for the purposes of this Law if –*
 - (a) *it is established solely or primarily for charitable, religious, cultural, educational, social, or fraternal purposes with the intention of benefiting the public or a section of the public; and*
 - (b) *it raises or disburses funds in pursuance of those purposes.*
- (2) *In paragraph (1) “organization” means a body of persons (whether incorporated or unincorporated), any legal entity and any equivalent or similar structure or arrangement and for the purpose of this Law the expression “organization” also includes persons acting as trustees of a trust.*

A prescribed service is defined in Article 7 of the Non-Profit Organizations (Jersey) Order 2008, and is summarised below as a service provided by:

- (a) a person acting as, fulfilling the function of, or arranging for an employee to act as, a director, council member of a foundation or trustee, where the person is registered under the Financial Services (Jersey) Law 1998 to provide the service (Class G, Class L and Class OA); or
- (b) a person that is a PTC that is acting as a trustee to a trust.

Regulated NPOs are not required to register as NPOs with us on the basis that we may exercise oversight of such organizations through its supervision of the TCB sector under the Financial Services (Jersey) Law 1998. Although we are aware that some regulated NPOs have chosen to register with us.

We are collecting data with respect to regulated NPOs for two reasons:

- (a) The data will form part of the information utilised in its risk based supervision of trust and company service activity.
- (b) When added to the data held in respect of registered NPOs, a view can be formed on the size and activities of the Jersey NPO sector.

2.2 Guidance by question

F1 Number of regulated NPOs by class of prescribed service, as at 31 December 2021

- (a) **Class G (director of a Jersey company)**
- (b) **Class G (director of a non-Jersey company)**
- (c) **Class L (trustee of an express trust)**
- (d) **Class OA (member of the council of a foundation)**
- (e) **Private trust company acting as trustee of a trust**
- (f) **Total number of regulated NPOs (auto generated)**

Insert, against the relevant class of TCB, the number of regulated NPOs to which services are provided, as at 31 December 2021.

Note that the response for question F1(e) should be **the number of NPOs to which the PTC provides a prescribed service** (acts as trustee). Do not respond by inserting the number of PTCs administered unless each PTC provides a prescribed service to one NPO.

F1(f) will automatically sum the entries above and therefore does not need to be completed.

Do not leave any of F1(a) to (e) blank, rather insert a “0”. F1(f) is an autosum cell which will not work unless each of F1(a) to (e) contains an entry.

F2 Number of regulated NPOs, as at 31 December 2021, the purpose of which is:

- (a) Purely philanthropic**
- (b) Head of an orphan structure**
- (c) Other**

Using the total in F1(f), analyse the regulated NPOs into the 3 categories of:

- (a) Purely philanthropic
- (b) Head of an orphan structure
- (c) Other

We do not have, and do not intend to provide, a definition of a philanthropic NPO. TCBs may have their own definition and if present, this should be used to classify their regulated NPOs.

We consider the following may indicate that a NPO should be reported at F2(a):

- (a) A private initiative for the public good often with a focus on the quality of life
- (b) Funds are provided by a single person or number of family members.

An obvious example being the Bill and Melinda Gates Foundation.

An orphan structure refers to a company whose shares are held by the trustee of a charitable trust. The company is said to be an “orphan” as it is not beneficially owned by any individual. Orphan structures may be used to ensure that:

- (a) assets and liabilities of the subject company are treated as “off-balance-sheet” with respect to the sponsor of the structure; and
- (b) the company is “bankruptcy remote” from companies in the same group as the sponsor.

The sum of questions F2(a) to (c) should equal F1(f).

Do not leave any of F2(a) to (c) blank, rather insert a “0”.

F3 Regulated NPOs, as at 31 December 2021, that:

- (a) Raise funds publicly AND apply those funds to benefit the public or a section of the public**
 - (i) Number; (ii) Value (in GBP)**
- (b) Raise funds privately AND apply those funds only to benefit the public or a section of the public**
 - (i) Number; (ii) Value (in GBP)**
- (c) Raise funds privately AND apply those funds primarily to benefit the public or a section of the public**
 - (i) Number; (ii) Value (in GBP)**

NPOs are of interest from a risk perspective due to the international evidence regarding the use of NPOs in the financing of terrorism.

Consequently, question **F3** is seeking a breakdown of the number of regulated NPOs that raise funds publicly (**F3(a)**) versus those that raise funds privately (F3(b) and F3(c)).

Where the funds are raised privately consider how the funds are applied and split the number between:

- (a) Applied **only** for the benefit of the public or a section of the public (in this context the relevant funds are those available after the payment of any fees to the TCB) (**F3(b)**)
- (b) Applied **primarily** for the benefit of the public or a section of the public (this case would apply if some of the funds available after the payment of any fees to the TCB are applied to a private cause) (**F3(c)**).

Questions F3(a)(i), F3(b)(i) and F3(c)(i) should be completed by analysing the total in F1(f). Do not leave these cells blank, insert “0” if no regulated NPOs of a particular type are being administered.

F3(a)(ii), F3(b)(ii) and F3(c)(ii) should be completed with the value of funds raised during 2021. If the regulated NPOs did not raise any funds during 2021 insert a “0”.

- F4** Countries in which funds have been raised during the reporting period
- F5** Countries in which funds have been disbursed during the reporting period
- F6** Total amount of funds raised during the reporting period, by country, for the top ten countries by amount
- F7** Total amount of funds disbursed during the reporting period, by country, for the top ten countries by amount

From a risk perspective whenever funds are raised for a regulated NPO from outside Jersey, or distributed by the regulated NPO outside Jersey, this may carry an additional level of ML/TF risk. The degree of additional risk will be determined by the jurisdiction to which funds are distributed, or from which they are raised.

Questions **F4** to **F7** are designed to better understand this risk.

Responses should be provided on spreadsheet *FA-Regulated NPO Country list*.

Note:

- (a) responses to F4 to F7 should cover the duration of the reporting period;
- (b) questions F4 and F5 should be responded to with a “X” against the relevant jurisdiction;
- (c) questions F6 and F7 only require the total amount raised or distributed by the largest 10 regulated NPOs; and
- (d) it is not necessary to place an entry against every jurisdiction on spreadsheet *FA-Regulated NPO Country list*.

3 Section FB – private trust companies

3.1 Overview

A “private trust company” is a company that is carrying on trust company business as set out in Article 2(3) of the Financial Services (Jersey) Law 1998 but which meets the conditions set out in the Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000, either:

- (a) paragraph 4 (private trust company business); or
- (b) paragraph 4A (private trust company business in respect of foundations).

3.2 Question guidance

The spreadsheet *FB-Private Trust Companies*, requests the name of the TCB administering the PTC. This is in recognition that the spreadsheet may be submitted by an affiliation leader but a participating member may be actually administering the PTC.

The data requested is:

- (a) **FB1 Name of TCB administrator**
As noted above, insert the name of the TCB that administers the PTC – this may be a participating member
 - (b) **FB2 Name of PTC**
Insert the full name of the PTC
 - (c) **FB3 Incorporation jurisdiction of PTC**
Pick the jurisdiction of incorporation from the dropdown list
 - (d) **FB4 PTC registration number**
Insert the registration number of the PTC provided by the registrar on registration
 - (e) **FB5 PTC incorporation date dd/mm/yyyy**
 - (f) **FB6 Name of any co-administrators**
Insert the names of any TCBs that are co-administrators of the PTC
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